

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

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**IN RE YASMIN AND YAZ (DROSPIRENONE)**  
**MARKETING, SALES PRACTICES AND**  
**PRODUCTS LIABILITY LITIGATION**  
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**3:09-md-02100-DRH-PMF**  
**MDL No. 2100**

**This Document Relates to:**

**Judge David R. Herndon**

*Michele Greenstein v. Bayer HealthCare*  
*Pharmaceuticals Inc., et al.* No. 3:12-cv-10021-  
DRH-PMF

**ORDER**

**HERNDON, Chief Judge:**

This matter is before the Court on Bayer's motion to show cause why the claims of the above captioned plaintiff should not be dismissed for failure to comply with the document preservation requirements in Case Management Order Number 61 ("CMO 61") (MDL 2100 Doc. 2740). Specifically, Bayer's motion to show cause relates to the plaintiff's alleged failure to comply with the requirements of CMO 61 § II.A.<sup>1</sup> Bayer's motion to show cause seeks dismissal of the plaintiff's claims in accord with the provisions of Section II.E. of CMO 61.<sup>2</sup>

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<sup>1</sup> Under CMO 61, the plaintiff was required to produce all of the documents and/or information described in Section II, including but not limited to the production of an expert report on general causation concerning the alleged gallbladder injury and a case-specific expert report concerning causation of the plaintiff's alleged gallbladder injury (MDL 2100 Doc. 2740 § II.A).

<sup>2</sup> Pursuant to Section II.E of CMO 61, if the plaintiff does not comply by the deadline set by the CMO, Bayer must send a letter giving the plaintiff 30 days to cure the deficiency. If the plaintiff still does not comply, Bayer is required to file a Motion to Show Cause Why the Gallbladder Claim

Pursuant to Section II.E. of CMO 61, the plaintiff had 30 days to respond to Bayer's motion to show cause. The plaintiff did not file any response.

At the expiration of the responsive pleading time, the motion was considered by Special Master Stephen Saltzburg.<sup>3</sup> Special Master Saltzburg reviewed the pleadings and the requirements of CMO 61 and filed a report and recommendation. Special Master Saltzburg found that the plaintiff failed to comply with the requirements of CMO 61 and recommended that the plaintiff's claims be dismissed with prejudice in accord with the requirements of CMO 61.

The parties were given 14 days to respond or object to Special Master Saltzburg's report and recommendation. The 14 day deadline for responding or objecting to the Special Master's report has expired. The plaintiff has not responded or objected in any way.

Upon consideration of Bayer's motion to dismiss, the Special Master's report and recommendation, and the requirements of CMO 61, the Court finds that the plaintiff has failed to comply with CMO 61. Therefore, the plaintiff's claims are subject to with prejudice dismissal. The Court adopts Special Master Saltzburg's report and recommendation as to this plaintiff. The plaintiff's claims

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should not be dismissed with prejudice. Plaintiff has 30 days to respond from the date of *filing* of the Motion. "Any failure to respond to the Motion within the required period of time shall lead to the dismissal of the Gallbladder Claim with prejudice, except for good cause shown."

<sup>3</sup> Section III of CMO 61 provides as follows: "The Court, by this Order, appoints Professor Stephen Saltzburg as Special Master to hear all motions regarding compliance with this Order, including motions directed to the sufficiency of the expert reports required under subparagraphs II (A) (5) and (6) above, and to recommend to this Court a ruling on each of the motions." (Doc. 2740 § III).

are therefore **DISMISSED WITH PREJUDICE** for failure to comply with the requirements of CMO 61.

Further, the Court **DIRECTS** the **Clerk of the Court** to **enter Judgment** reflecting the same.

**SO ORDERED:**

 Digitally signed by  
David R. Herndon  
Date: 2014.02.26  
07:22:43 -06'00'

**Chief Judge**  
**United States District Court**

**Date: February 26, 2014**